

Application No. 10/670,465  
Amd. Dated: February 9, 2007  
Reply to Office Action mailed November 14, 2006

**Amendments to the Drawings:**

The attached sheet of drawings includes changes to Fig. 8. This sheet, which includes only Fig. 8, replaces the original sheet including Fig. 8.

The reference numbers 822, 824, and 826 have been added to the drawing.

Attachment: One Replacement Sheet

### **REMARKS/ARGUMENTS**

Reconsideration of this Application and entry of this Amendment is respectfully requested. Claims 1, 4, 6-8, 10, 11, and 34 - 40, with claim 1 and 36 being the independent claims. Claims 2, 3, 5, 9, and 12-33 have been canceled without disclaimer of or prejudice to the subject matter thereof. Claims 1, 4, and 6-8 have been amended and new claim 34 - 40 have been added. These changes do not introduce new matter and each of the new claims 34 - 40 reads on the elected species of FIG. 8.

#### **Defective Declaration**

The examiner requested a new declaration identifying the application by its application number and filing date and stating that each of the inventors is an "original, first and joint inventor." In accordance therewith, Applicants submit a Supplemental Declaration executed by the inventors that properly identifies the application and contains the appropriate wording.

#### **Drawing Objection**

The examiner noted that reference number 824 mentioned in the specification was missing from FIG. 8. Applicants submit herewith a replacement sheet of drawings with FIG. 8 corrected to include reference number 824. In addition, reference numbers 822, 824 and 826 have been added to FIG. 8 to correspond with description added in the amended paragraph [0071] above. The amendment of FIG. 8 is fully supported by FIGS. 7 and 8 as filed, as well as the description of FIG. 7 contained in paragraphs [0068]-[0071].

#### **Objection to the Specification**

The examiner noted that FIG. 8 included reference numbers 802, 804, and 806 that were not mentioned in the specification. Amended paragraph [0071] above addresses this error. Support for the amendment of paragraph [0071] is fully supported by FIGS. 7 and 8 as filed, as well as the description of FIG. 7 contained in paragraphs [0068]-[0071].

#### **35 U.S.C. §102(b) Rejections**

Claims 1, 2, 4, and 6-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,728,063 to Preissman et al. Claims 1, 2, 4, 6 and 7 are rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,156,564 to Keith et al. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,458,613 to Gharibadeh et al.

Claim 1 has been amended to better define the catheter thereof. Claim 1 now recites that a spiral helix is at least partially free-floating within the inflation lumen of the transition section. Support for this amendment may be found, *inter alia*, in specification paragraphs [0068]-[0071].

The Preissman et al., Keith et al., and Gharibadeh et al. patents do not disclose catheters having a spiral helix that is at least partially free-floating within an inflation lumen of a transition section. Each of the catheters of the Preissman et al. and Keith et al. patents includes reinforcing members that are embedded into a wall of the catheter shaft (*see* Preissman et al., col. 8, line 9-20) or fixedly attached thereto (*see* Keith et al., col. 10, line 64-67), whereas the catheter disclosed in the Gharibadeh et al. patent does not have a transition section or a spiral helix (*see* Gharibadeh et al. patent, FIGS. 1-7). As such, independent claim 1 is not anticipated by and is patentable over each of the Preissman et al., Keith et al., and Gharibadeh et al. patents.

Claims 2, 4 and 6-8 depend from and add further features to independent claim 1 and are patentable for that reason alone. While it is not necessary to address the Examiner's rejection of the dependent claims at this time, Applicants reserve the right to support their patentability, when necessary.

35 U.S.C. §103(a) Rejections

Claims 10 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gharibadeh et al. in view of US Patent No. 5,458,613 to Crittenden et al.

As discussed above, the catheter disclosed in the Gharibadeh patent does not teach or suggest a transition section or a spiral helix as recited in amended claim 1. Further the Crittenden patent does not make up for the deficiency in the primary reference, as it does not teach or suggest a catheter having a transition section as recited in claim 1. As such, claims 10 and 11 that depend from and add further features to independent claim 1 are patentable for that reason alone. While it is not necessary to address the Examiner's rejection of the dependent claims at this time, Applicants reserve the right to support their patentability, when necessary.

New Claims 34-40

Each of the new claims 34 - 40 reads on the elected species of FIG. 8.

Claims 34 and 35 depend from and add further features to independent claim 1 and are patentable over the cited references for at least the reasons argued above with respect to that claim.

Independent claim 36 recites the feature a spiral helix is at least partially free-floating within the inflation lumen of the distal shaft. The Preissman et al., Keith et al., and Gharibadeh et al. patents do not disclose catheters having a spiral helix that is at least partially free-floating within an inflation lumen of a distal shaft. Each of the catheters of the Preissman et al. and Keith

et al. patents includes reinforcing members that are embedded into a wall of the catheter shaft (*see* Preissman et al., col. 8, line 9-20) or fixedly attached thereto (*see* Keith et al., col. 10, line 64-67), whereas the catheter disclosed in the Gharibadeh et al. patent does not have a transition section or a spiral helix (*see* Gharibadeh et al. patent, FIGS. 1-7). As such, independent claim 36 is not anticipated by and is patentable over each of the Preissman et al., Keith et al., and Gharibadeh et al. patents.

Claims 37-40 depend from and add further features to independent claim 36 and are patentable for that reason alone. While it is not necessary to address the Examiner's rejection of the dependent claims at this time, Applicants reserve the right to support their patentability, when necessary.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 543-0221.

Respectfully submitted,

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